

AMENDED IN ASSEMBLY APRIL 1, 2013  
AMENDED IN ASSEMBLY MARCH 21, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 855**

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**Introduced by Assembly Member Brown**

February 21, 2013

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An act to amend Section 19996.2 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 855, as amended, Brown. State employees: absence without leave: reinstatement.

The State Civil Service Act provides that absence without leave for 5 consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked. The act provides a procedure for a permanent or probationary state employee to seek reinstatement and for the Department of Human Resources to grant reinstatement. Reinstatement may be granted if (1) the employee makes a satisfactory explanation to the department as to the cause of his or her absence and his or her failure to obtain leave, and (2) the department finds that the employee is ready, able, and willing to resume the discharge of the duties of his or her position or has obtained consent for a leave of absence.

This bill would provide that an employee may demonstrate that he or she is ready, able, and willing to resume the discharge of the duties of his or her position by submitting written verification from a licensed health care provider that shows the employee is released to return to work. The bill would require the department to grant reinstatement if

the hiring authority invokes these provisions before the employee is absent without leave for 5 consecutive work days.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 19996.2 of the Government Code is  
2 amended to read:

3 19996.2. (a) Absence without leave, whether voluntary or  
4 involuntary, for five consecutive working days is an automatic  
5 resignation from state service, as of the last date on which the  
6 employee worked.

7 (b) (1) A permanent or probationary employee may, within 90  
8 days of the effective date of a separation described in subdivision  
9 (a), file a written request with the department for reinstatement.  
10 However, if the appointing power has notified the employee of his  
11 or her automatic resignation, any request for reinstatement shall  
12 be made in writing and filed within 15 days of the service of notice  
13 of separation. Service of notice shall be made as provided in  
14 Section 18575 and is complete on mailing. Reinstatement may be  
15 granted if both of the following apply:

16 (A) The employee makes a satisfactory explanation to the  
17 department as to the cause of his or her absence and his or her  
18 failure to obtain leave.

19 (B) The department finds that the employee is ready, able, and  
20 willing to resume the discharge of the duties of his or her position  
21 or, if not, that he or she has obtained the consent of his or her  
22 appointing power to a leave of absence to commence upon  
23 reinstatement.

24 (2) An employee may demonstrate to the department that he or  
25 she is ready, able, and willing to resume the discharge of the duties  
26 of his or her position by submitting written verification from a  
27 licensed health care provider that shows the employee is released  
28 to return to work. However, nothing in this section waives the right  
29 of the hiring authority to challenge the validity or accuracy of the  
30 medical verification during any proceedings before the department.

31 (3) The department shall grant reinstatement if the hiring  
32 authority invokes this section before the employee is absent without  
33 leave for five consecutive work days. *However, nothing in this*

1 *provision limits the hiring authority's right to otherwise terminate*  
2 *an employee.*

3 (4) Except as provided in subdivision (c), an employee reinstated  
4 pursuant to this section shall not be paid salary for the period of  
5 his or her absence or separation, or for any portion thereof.

6 (c) If this section is in conflict with a memorandum of  
7 understanding reached pursuant to Section 3517.5, the  
8 memorandum of understanding shall be controlling without further  
9 legislative action. However, if the memorandum of understanding  
10 requires the expenditure of funds, the memorandum of  
11 understanding shall not become effective unless approved by the  
12 Legislature in the annual Budget Act.